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22 January 1954

OGC HAS REVIEWED.

MEMORANDUM FOR: General Tax File

SUBJECT : Limit on Credit for Foreign Taxes Paid Against U. S.
Income Tax

1. Section 131(b) of the Internal Revenue Code (IRC) reads in pertinent part as follows:

"The amount of the credit in respect of the tax paid or accrued to any country shall not exceed, in the case of a taxpayer other than a corporation, the same proportion of the tax against which such a credit is taken, which the taxpayer's net income from sources within such country bears to his entire net income for the same taxable year."

2. In G.C.M. 25723, the Internal Revenue Service (IRS) had indicated that the credit for foreign taxes paid should be limited in application only as expressly provided in Section 131(b). However, this ruling was later modified by G.C.M. 26062 which extended the limitation to that portion of the income tax paid to the foreign country or possession of the United States which was attributable to income taxed both in the foreign country or possession of the United States and in the United States.

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3. In the case of [REDACTED], the Tax Court revoked, in effect overruled, the later GCM and reinstated the former. In substance, the Commissioner can no longer deny the taxpayer credit for that portion of foreign taxes allocable to excluded earned income under Section 116(a) on which he would not be required to pay a U. S. tax. Revenue Ruling 54-15 reflects this change.

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